

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 7, 2004**

**IN RE:**

**PETITION OF INTEGRATED RESOURCE  
MANAGEMENT UTILITY, INC., TO AMEND  
ITS CERTIFICATE OF CONVENIENCE AND  
NECESSITY**

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**DOCKET NO. 04-00153**

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**ORDER APPROVING PETITION TO AMEND  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

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This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a Hearing held on August 30, 2004, to consider the *Petition of IRM Utility, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand the service territory of Integrated Resource Management, Inc. ("IRM") to include a portion of Jefferson County, Tennessee, known as Wild Pear Shores Subdivision.

**Legal Standard for Granting Certificate of Public Convenience and Necessity**

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Tennessee Regulatory Authority. The procedure for obtaining a certificate of convenience and necessity ("CCN") evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any

plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

### **Background**

On August 7, 2003, Integrated Resource Management Utility, Inc. filed an application for a CCN in Docket No. 03-00467. On November 10, 2003, the Authority approved IRM's application and granted IRM a CCN to provide sewer service to two (2) customers in Sevier County, Tennessee.<sup>1</sup>

IRM filed the *Petition* on May 19, 2004, to expand its service territory to include an area of Jefferson County, Tennessee, known as Wild Pear Shores Subdivision. At a regularly scheduled Authority Conference on July 26, 2004, the voting panel assigned to this docket voted unanimously to appoint the Authority's General Counsel or his designee to act as the Hearing Officer in this proceeding, to hear preliminary matters prior to the Hearing, and to set a procedural schedule to completion.<sup>2</sup> The Hearing Officer issued a *Notice of Hearing* on August 2, 2004, announcing that the voting panel assigned to this docket would conduct the Hearing on the merits of the *Petition* on Monday, August 30, 2004, immediately following the regularly scheduled Authority Conference.

### **The Petition**

The *Petition* requests an expansion of IRM's authorized service area to include a portion of Jefferson County known as Wild Pear Shores Subdivision. A map showing the area to which IRM proposes to extend its service is attached to the *Petition*. IRM filed a schedule<sup>3</sup> on May 19, 2004, with the *Petition* stating that the residential sewer rate for Wild Pear Shores Subdivision will be thirty-four dollars and ninety-five cents (\$34.95) per month.

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<sup>1</sup> See *In re Application of Integrated Resource Management Utility, Inc. for a Certificate of Public Convenience and Necessity to Provide Wastewater Systems Services*, Docket No. 03-00467, *Order Approving Application for a Certificate of Public Convenience and Necessity, Tariff and Special Contract* (March 16, 2004).

<sup>2</sup> *Order Appointing A Hearing Officer* (August 3, 2004).

<sup>3</sup> *Petition, Exhibit B*

The *Petition* states that the subject area is platted and recorded in the Jefferson County Courthouse in Dandridge, Tennessee. In its *Petition*, IRM contends that Town of Dandridge and the County Executive of Jefferson County have declined to provide wastewater treatment service to Wild Pear Shores Subdivision. In support of this contention, IRM attached a letter to Mr. Lee Gamble with Development Services of Sevierville, Tennessee, from Ms. Jane L. Sorey, Town Administrator of Dandridge, stating that the Water Board met on Thursday, May 17, 2001, and voted not to provide sanitary sewer service to the Wild Pear Shores development,<sup>4</sup> and a letter from the County Executive of Jefferson County, Gary W. Holiway, stating that Jefferson County can not provide sanitary sewer services for this development.

#### **The August 30, 2004 Hearing**

Pursuant to Tenn. Code Ann. § 65-4-203(b), public notice of the Hearing in this matter was issued by the Hearing Officer on August 2, 2004. No persons sought intervention prior to, or during, the Hearing. At the Hearing held on August 30, 2004, Mr. Jeffrey William Cox, President of IRM, participated in the Hearing, presented testimony, and was subject to examination by the panel assigned to this docket. Charles B. Welch, Jr., Esq.; Farris, Matthews, Branan, Bobango, Hellen & Dunlap PLC, 618 Church Street, Suite 300, Nashville, Tennessee 37219 appeared on behalf of IRM. Upon the presentation of IRM's proof in this case, the evidentiary record as a whole, and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a), Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones voted unanimously at the Hearing to approve IRM's *Petition*.

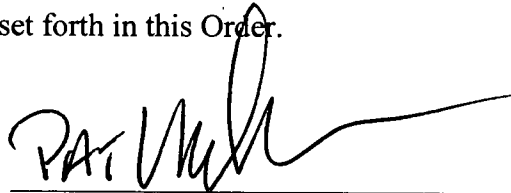
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<sup>4</sup> *Petition, Exhibit C* In the letter to Mr. Gamble, Ms. Sorey stated that she spoke with Mr. Herb Norton, the Superintendent of Public Works, and he said that the Water Board did not vote to deny water service to this development, but that it had already entered into negotiations with NewPort Utility to buy and resell water to Dandridge (May 23, 2001)

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition of IRM Utility, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include an area in Jefferson County, Tennessee, known as Wild Pear Shores Subdivision, as shown in the map attached to the *Petition* is approved.

2. Integrated Resource Management Utility, Inc.'s rates for wastewater services to Jefferson County, Tennessee, known as Wild Pear Shores Subdivision, shall be in compliance with the rate schedule attached to their *Petition* and as set forth in this Order.

  
Pat Miller, Chairman

  
Deborah Taylor Tate, Director

  
Ron Jones, Director